



General Assembly

January Session, 2011

Raised Bill No. 6299

LCO No. 2960

02960_____GL_

Referred to Committee on General Law

Introduced by:
(GL)

AN ACT CONCERNING CHAIN STORE CIGARETTE DISTRIBUTORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 12-285 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2011*):

4 (a) When used in this chapter, unless the context otherwise requires:

5 (1) "Person" means any individual, firm, fiduciary, partnership,
6 corporation, limited liability company, trust or association, however
7 formed;

8 (2) "Distributor" means (A) any person in this state engaged in the
9 business of manufacturing cigarettes; (B) any person, other than a
10 buying pool, as defined herein, who purchases cigarettes at wholesale
11 from manufacturers or other distributors for sale to licensed dealers,
12 and who maintains an established place of business, including a
13 location used exclusively for such business, which has facilities in
14 which a substantial stock of cigarettes and related merchandise for
15 resale can be kept at all times, and who sells at least seventy-five per

16 cent of such cigarettes to retailers who, at no time, shall own any
17 interest in the business of the distributor as a partner, stockholder or
18 trustee; (C) any person operating or franchising five or more retail
19 stores in this state for the sale of cigarettes who splits gross profits with
20 such stores and who purchases cigarettes at wholesale for sale to
21 dealers but sells such cigarettes exclusively to retail stores such person
22 is operating or franchising; (D) any person operating and servicing
23 twenty-five or more cigarette vending machines in this state who buys
24 such cigarettes at wholesale and sells them exclusively in such vending
25 machines. If a person qualified as a distributor in accordance with this
26 subparagraph, in addition sells cigarettes other than in vending
27 machines, such person shall be required to be qualified as a distributor
28 in accordance with subparagraph (B) of this subdivision and have an
29 additional distributor's license for purposes of such other sales; (E) any
30 person who imports into this state unstamped cigarettes, at least
31 seventy-five per cent of which are to be sold to others for resale; and
32 (F) any person operating storage facilities for unstamped cigarettes in
33 this state;

34 (3) "Cigarette vending machine" means a machine used for the
35 purpose of automatically merchandising packaged cigarettes through
36 the insertion of the proper amount of coins therein by the purchaser,
37 but does not mean a restricted cigarette vending machine;

38 (4) "Restricted cigarette vending machine" means a machine used
39 for the dispensing of packaged cigarettes which automatically
40 deactivates after each individual sale, cannot be left operable after a
41 sale and requires, prior to each individual sale, a face-to-face
42 interaction or display of identification between an employee of the
43 area, facility or business where such machine is located and the
44 purchaser;

45 (5) "Dealer" means any person other than a distributor who is
46 engaged in this state in the business of selling cigarettes, including any
47 person operating and servicing fewer than twenty-five cigarette

48 vending machines, and any person who is engaged in the business of
49 selling taxed tobacco products, as defined in section 12-330a, at retail;

50 (6) "Licensed dealer" means a dealer licensed under the provisions
51 of this chapter;

52 (7) "Stamp" means any stamp authorized to be used under this
53 chapter by the Commissioner of Revenue Services and includes heat-
54 applied decals;

55 (8) "Sale" or "sell" includes or applies to gifts, exchanges and barter;
56 and

57 (9) "Buying pool" means and includes any combination, corporation,
58 association, affiliation or group of retail dealers operating jointly in the
59 purchase, sale, exchange or barter of cigarettes, the profits from which
60 accrue directly or indirectly to such retail dealers, provided any person
61 holding a distributor's license issued prior to June 29, 1951, shall be
62 deemed to be a distributor within the terms of this section.

63 Sec. 2. Subsection (a) of section 12-286 of the general statutes is
64 repealed and the following is substituted in lieu thereof (*Effective July*
65 *1, 2011*):

66 (a) (1) The commissioner shall, after May 25, 1994, require for an
67 initial application for a distributor's license, in addition to such other
68 information deemed to be necessary, the filing of three affidavits from
69 three recognized manufacturers of cigarettes stating such
70 manufacturers' intent to supply the distributor if the applicant is
71 granted a license. A chain store shall be exempt from filing such
72 affidavits. Any pending application on May 25, 1994, and any person
73 purchasing the business of a licensed distributor shall be exempt from
74 filing such affidavits. For purposes of this subsection, "chain store"
75 means the operator or franchisor of five or more retail establishments,
76 [with common ownership and control.]

77 (2) The commissioner may make public a list of recognized

78 manufacturers of cigarettes.

79 Sec. 3. Section 12-288 of the general statutes is repealed and the
80 following is substituted in lieu thereof (*Effective July 1, 2011*):

81 Each person engaging in, or intending to engage in, the business of
82 selling cigarettes in this state as a distributor shall secure a license from
83 the Commissioner of Revenue Services before engaging or continuing
84 to engage in such business. Subject to the provisions of section 12-286,
85 as amended by this act, such license shall be renewable annually. The
86 annual fee for a distributor's license shall be one thousand two
87 hundred fifty dollars, provided in the case of a distributor who sells
88 cigarettes as a distributor exclusively to retail stores which such
89 distributor is operating, the fee for such distributor's license shall be:
90 (1) Three hundred fifteen dollars annually if such distributor operates
91 or franchises less than fifteen such retail stores; (2) six hundred twenty-
92 five dollars annually if such distributor operates or franchises fifteen or
93 more but less than twenty-five such retail stores; and (3) one thousand
94 two hundred fifty dollars annually if such distributor operates or
95 franchises twenty-five or more such retail stores. Such license shall be
96 valid for a period beginning with the date of license to the thirtieth day
97 of September next succeeding the date of license unless sooner revoked
98 by the commissioner as provided in section 12-295 or unless the person
99 to whom such license was issued discontinues business, in either of
100 which cases the holder of the license shall immediately return it to the
101 Commissioner of Revenue Services.

102 Sec. 4. Subsection (a) of section 12-326a of the general statutes is
103 repealed and the following is substituted in lieu thereof (*Effective July*
104 *1, 2011*):

105 (a) As used in sections 12-326a to 12-326h, inclusive, as amended by
106 this act, (1) "stamping agent" means a licensed distributor other than a
107 buying pool, who purchases cigarettes at wholesale from
108 manufacturers or other distributors for sale to licensed dealers and
109 who maintains an established place of business, including a location

110 used exclusively for such business, which has facilities in which a
111 substantial stock of cigarettes and related merchandise for resale can
112 be kept at all times, and who sells at least seventy-five per cent of such
113 cigarettes to retailers who, at no time, shall own any interest in the
114 business of the distributor as a partner, stockholder or trustee; (2)
115 "subjobber" means a licensed distributor who purchases stamped
116 cigarettes at wholesale for sale to licensed dealers who, at no time,
117 shall own any interest in the business of the distributor as a partner,
118 stockholder or trustee; (3) "chain store" means a licensed distributor
119 (A) operating or franchising five or more retail stores [with common
120 ownership and control] in this state for the sale of cigarettes who splits
121 gross profits with such stores and who purchases cigarettes at
122 wholesale either from another distributor or direct from the
123 manufacturer for sale to dealers but sells such cigarettes exclusively in
124 or to retail stores such person is operating or franchising, or (B)
125 operating and servicing twenty-five or more cigarette vending
126 machines in this state who buys such cigarettes at wholesale and sells
127 them exclusively in such vending machines; (4) "cost" means the basic
128 cost of cigarettes plus the cost of doing business; (5) "basic cost of
129 cigarettes" means (A) the lower of (i) the invoice cost of the cigarettes
130 to the distributor or dealer, as the case may be, or (ii) the replacement
131 cost in the quantity last purchased, plus (B) the full face value of any
132 stamps which may be required by this chapter, if not already included
133 in the invoice cost, minus (C) all trade discounts, if any, other than
134 cash discounts; (6) "cost of doing business" means the costs, as
135 computed for federal income tax purposes, that are related to the sale
136 of cigarettes, including but not limited to labor costs, including salaries
137 of executives and officers, rent, depreciation, selling costs, maintenance
138 of equipment, delivery costs, interest, licenses, taxes, insurance,
139 advertising, preopening expenses and any central and regional
140 administrative expenses, expressed as a percentage of the basic cost of
141 cigarettes and applied thereto. In applying such percentage to the basic
142 cost of cigarettes, any fractional part of a cent equal to one-tenth or
143 more of one cent per carton of ten packages of cigarettes shall be

144 rounded to the next higher cent.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	12-285(a)
Sec. 2	<i>July 1, 2011</i>	12-286(a)
Sec. 3	<i>July 1, 2011</i>	12-288
Sec. 4	<i>July 1, 2011</i>	12-326a(a)

Statement of Purpose:

To amend the definition of a cigarette distributor to clarify that chain store distributors include certain franchise entities.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]